



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Jeffrey G. Weil, Esq.
Kathryn Young Galla, Esq.
Cozen O'Connor
One Liberty Place
1650 Market Street, Suite 2800
Philadelphia, PA 19103

NOV 16 2017

RE: MUR 7216
Concerned Constituents Action Group
f/k/a Costello Constituent Action Group

Dear Mr. Weil and Ms. Galla:

On February 15, 2017, the Federal Election Commission notified your client, Concerned Constituents Action Group ("CCAG"), formerly known as Costello Constituent Action Group, of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. On November 13, 2017, the Commission found, on the basis of the information in the complaint, and information provided by CCAG, that there is no reason to believe CCAG violated 52 U.S.C. §§ 30102, 30103 or 30120. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink that reads "Mark Allen".

Mark Allen
Assistant General Counsel

Enclosure
Factual and Legal Analysis

11-03-2017 10:10:10 AM

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Concerned Constituents Action Group f/k/a
Costello Constituent Action Group

MUR 7216

I. INTRODUCTION

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Complainant alleges that Costello Constituent Action Group (“CCAG”),¹ a “political organization,” violated the Federal Election Campaign Act of 1971, as amended (the “Act”), by failing to register as a political committee, appoint a treasurer, and include disclaimers on communications, and also by using Costello’s name in the name of the organization.² Based on the available record, the Commission found that there is no reason to believe that CCAG violated the Act.

II. FACTUAL BACKGROUND

Congressman Ryan Costello represents the Sixth District of Pennsylvania in the United States House of Representatives, and is a candidate for reelection in 2018. According to the Complaint, CCAG began organized political activities after the 2016 Presidential election, with a mission to “resist the dismantling of environmental and societal protections.”³ Complainant also alleges that CCAG specifically targets Costello and the policies of President Donald Trump by organizing protests throughout Costello’s district.⁴ Complainant alleges that CCAG conducts its

¹ In its response, CCAG states that it has changed its name to “Concerned Citizens Action Group,” but later in the response refers to itself as “Concerned Constituents Action Group.” Resp. at 1, 4. The affidavit submitted by Tammy Harkness, who avers that she has been involved with CCAG since its inception, also refers to the group as “Concerned Constituents Action Group.” See Harkness Aff. ¶ 3. However, CCAG’s name is spelled out on its website and social media pages as “Concerned *Constituent* Action Group” (emphasis added). See <http://www.ccag-d6.com/make-your-voice-heard>; https://twitter.com/CCAG_District6; <https://www.facebook.com/ccagd6>.

² Compl. at 1.

³ *Id.*

⁴ *Id.*

political activities primarily through a website, Facebook, Twitter, and an email list.⁵ The Complaint maintains that CCAG does not identify individuals on its website who operate the organization, it discloses no physical address on the website, and it anonymously registered its Internet domain name.⁶

CCAG denies that it is a political committee under the Act.⁷ According to an affidavit from Tammy Harkness, an individual involved with CCAG since its inception, CCAG was formed in January 2017, it is a “loosely affiliated non-partisan idea network” of Sixth District residents, and it encourages citizens to communicate with their representative, Costello, through letters, phone calls, visits, and rallies.⁸ Harkness avers that CCAG has taken no position on any candidate running for federal office.⁹ The information on CCAG’s website, Facebook page, and Twitter account focuses on issues and legislation, such as the environment, immigration, and the Affordable Care Act, and on organizing rallies and demonstrations to urge that Costello support their views.¹⁰

CCAG provided an itemized list of disbursements as of March 31, 2017, totaling \$1,464.50, of which \$1,149.00 was disbursed to rent an auditorium for a town hall meeting.¹¹

CCAG asserts that this meeting and other events, such as weekly rallies, communicated

⁵ *Id.*

⁶ *Id.* at 2.

⁷ Resp. at 2.

⁸ Resp. at 1, Harkness Aff. Based upon a review of the records of the Commonwealth of Pennsylvania’s Department of State and a search of other databases, it does not appear that CCAG is incorporated in Pennsylvania or in any other State.

⁹ Harkness Aff. ¶ 6.

¹⁰ See <http://www.ccag-d6.com/make-your-voice-heard>; <https://www.facebook.com/ccagd6>; https://twitter.com/CCAG_District6.

¹¹ See Resp. Ex. B.

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constituent opinions and questions to Costello.¹² The remaining \$315.50 was disbursed for website costs, a Google account, a Post Office box, a domain name, contact information cards, and meeting space in a library.¹³ CCAG asserts it has no organized system to solicit and retain funds; it merely pays expenses as they occur.¹⁴ CCAG identifies four individuals who paid for most of the expenses, but does not identify who paid to rent the auditorium.¹⁵

III. LEGAL ANALYSIS

A. Political Committee Status

A political committee is “any committee, club, association, or other group of persons” that receives aggregate contributions or makes aggregate expenditures in excess of \$1,000 during a calendar year.¹⁶ Contributions are defined as any gift, subscription, loan, advance or deposit of money or anything of value, made by any person for the purpose of influencing any election for Federal office.¹⁷ Similarly, expenditures are defined as any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office.¹⁸ Political committees are required to

¹² Resp. at 3.

¹³ See *id.*, Ex. B.

¹⁴ Resp. at 3. It does not appear that CCAG solicits donations through its website, Facebook page or Twitter page. See <http://www.ccag-d6.com/make-your-voice-heard>; <https://www.facebook.com/ccagd6>; https://twitter.com/CCAG_District6.

¹⁵ Resp. Ex. B.

¹⁶ 52 U.S.C. § 30101(4)(A). Notwithstanding the threshold for contributions and expenditures, an organization will be considered a political committee only if its “major purpose is Federal campaign activity (*i.e.* the nomination or election of a Federal candidate).” See Political Committee Status: Supplemental Explanation and Justification, 72 Fed. Reg. 5595, 5597 (Feb. 7, 2007); *Buckley v. Valeo*, 424 U.S. 1, 79 (1976); *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 262 (1986).

¹⁷ 52 U.S.C. § 30101(8)(A).

¹⁸ 52 U.S.C. § 30101(9)(A).

register with the Commission and meet organizational and recordkeeping requirements, including the appointment of a treasurer and the filing of periodic disclosure reports.¹⁹

The available information supports CCAG's assertion that it is not a political committee as defined in the Act, and thus, it is exempt from the Act's requirements and prohibitions.²⁰

CCAG expressly denies that it takes positions on federal candidates,²¹ and there is no information to the contrary. CCAG states that as of March 31, 2017, it had spent \$1,464.50, of which \$1,149 was rent for a space to hold a town hall meeting to express its views on issues. Because the available information indicates that the town hall meeting involved the expression of opinions on issues, and not advocacy for the election or defeat of any candidate, the payment does not appear to constitute an expenditure.²² A review of CCAG's website and social media since March 31, 2017, does not indicate that it has engaged in activity constituting expenditures exceeding \$1,000.

Therefore, the Commission found that there is no reason to believe that CCAG violated 52 U.S.C. §§ 30102 or 30103 by failing to register as a political committee and appoint a treasurer.

¹⁹ 52 U.S.C. §§ 30102, 30103, 30104.

²⁰ Resp. at 2. CCAG contends that its major purpose is issue-based advocacy not the nomination or election of a candidate, and has focused on issues, such as health care and immigration. *Id.*

²¹ Harkness Aff. ¶ 6.

²² See *Buckley v. Valeo*, 424 U.S. 1, 44, 80 (1976); 11 C.F.R. § 100.22.

B. Disclaimers

All public communications by any person that expressly advocate the election or defeat of a clearly identified candidate, or solicit contributions, must include a disclaimer as set forth in the Act and Commission regulations.²³ A political committee's publicly available website must also contain a disclaimer.²⁴ A public communication is a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public or any other type of general public political advertising.²⁵ The term "general public political advertising" shall not include communications over the Internet, except for communications placed for a fee on another person's website.²⁶

CCAG is not a political committee under the Act, it communicates through its website and other social media, and it does not appear to have placed any communications on another person's website for a fee nor engaged in any other type of public communication. Accordingly, there is no basis for concluding that CCAG violated the disclaimer provisions. Therefore, the Commission found that there is no reason to believe that CCAG violated 52 U.S.C. § 30120 by failing to include disclaimers on communications.

²³ 11 C.F.R. § 110.11(a)(2), (a)(3). *See also* 52 U.S.C. § 30120 and 11 C.F.R. § 100.22.

²⁴ 11 C.F.R. § 110.11(a)(1).

²⁵ 11 C.F.R. § 100.26.

²⁶ *Id.* If the public communication is not authorized by a candidate or an authorized political committee, the disclaimer shall clearly state the name and permanent street address, telephone number and World Wide Web address of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee. 52 U.S.C. § 30120 and 11 C.F.R. § 110.11(b).

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